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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,380	08/27/1999	MICHIHISA TASAKA	0234-0370P	7724
2292	7590	12/15/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			LEE, RIP A	
			ART UNIT	PAPER NUMBER
			1713	
DATE MAILED: 12/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/384,380

Applicant(s)

TASAKA ET AL.

Examiner

Rip A. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7 and 10-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 and 10-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action follows Applicant's letter of September 17, 2004 requesting a new office action. Claims 1-3, 5-7, and 10-36 were filed in the amendment (RCE) of June 14, 2004. The office action sent on August 19, 2004 is incomplete as only claims 1-3, 5-7, and 10-15 were addressed. The current office action addresses all pending claims.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-3, 5-7, and 10-36 remain rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,433,062 to Tasaka *et al.* in view of U.S. Patent No. 5,221,781 to Aida *et al.* for the same reasons set forth previously.

The reasons for rejection of claims 1-3, 5-7, and 10-15 remains invariant, and they will not be repeated here. Applicants may refer to any of the previous office actions for details.

New claims 16, 18, 20, and 30 recite the compositions of claims 1, 5, 10, and 15, respectively and include a recitation that the thermoplastic component (A) is partially crosslinked. Claims 22, 24, 26, and 28 recite the methods of claims 11, 12, 13, and 14, respectively, and include a recitation that the thermoplastic component (A) is partially crosslinked. The subject matter of these claims are obvious over the prior art because Tasaka *et al.* teaches use of 0.1-10 parts by weight of a crosslinking auxiliary relative to 100 pw of the block copolymer. Since the amount of crosslinking agent is significantly less than that of the polymeric component, one of ordinary skill in the art would have found it obvious that only a partial amount of the overall polymer would be crosslinked.

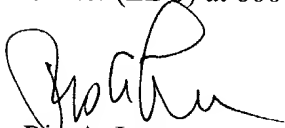
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As explained previously, and as applies to claims 32-36, one having ordinary skill in the art would have found it obvious to use a silane coupling agent with a vinyl/epoxy terminus for the filler because Aida *et al.* teaches such an embodiment. Tasaka *et al.* is silent with respect to the degree of crosslinking, as recited in the remaining claims 17, 19, 21, 23, 25, 27, and 29. However, in light of the fact that the composition of the prior art and that presently claimed are essentially the same, and in view of the fact that prior art method for making the composition is essentially the same as that claimed, it would have been obvious to one having ordinary skill in the art to have a reasonable basis for expecting the compositions of the prior art to exhibit essentially the same degree of crosslinking. Since the PTO can not perform experiments, the burden is shifted to the Applicants to establish an unobviousness difference. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Rip A. Lee

December 7, 2004